



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0689

Introduced 2/6/2007, by Rep. Suzanne Bassi

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.21	from Ch. 122, par. 10-20.21
105 ILCS 5/34-21.3	from Ch. 122, par. 34-21.3
30 ILCS 805/8.31 new	

Amends the School Code. Provides that school board contracts for the purchase of natural gas or electric service involving an expenditure in excess of \$10,000 must be awarded to the lowest responsible bidder (now, contracts for the purchase of natural gas are exempted from the bidding requirement when the cost is less than that offered by a public utility). Amends the State Mandates Act to require implementation without reimbursement.

LRB095 09965 NHT 30177 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Sections
5 10-20.21 and 34-21.3 as follows:

6 (105 ILCS 5/10-20.21) (from Ch. 122, par. 10-20.21)
7 Sec. 10-20.21. Contracts.

8 (a) To award all contracts for purchase of supplies,
9 materials, or work, contracts for the purchase of natural gas
10 or electric service, or contracts with private carriers for
11 transportation of pupils involving an expenditure in excess of
12 \$10,000 to the lowest responsible bidder, considering
13 conformity with specifications, terms of delivery, quality, and
14 and serviceability, after due advertisement, except the
15 following: (i) contracts for the services of individuals
16 possessing a high degree of professional skill where the
17 ability or fitness of the individual plays an important part;
18 (ii) contracts for the printing of finance committee reports
19 and departmental reports; (iii) contracts for the printing or
20 engraving of bonds, tax warrants and other evidences of
21 indebtedness; (iv) contracts for the purchase of perishable
22 foods and perishable beverages; (v) contracts for materials and
23 work which have been awarded to the lowest responsible bidder

1 after due advertisement, but due to unforeseen revisions, not
2 the fault of the contractor for materials and work, must be
3 revised causing expenditures not in excess of 10% of the
4 contract price; (vi) contracts for the maintenance or servicing
5 of, or provision of repair parts for, equipment which are made
6 with the manufacturer or authorized service agent of that
7 equipment where the provision of parts, maintenance, or
8 servicing can best be performed by the manufacturer or
9 authorized service agent; (vii) purchases and contracts for the
10 use, purchase, delivery, movement, or installation of data
11 processing equipment, software, or services and
12 telecommunications and interconnect equipment, software, and
13 services; (viii) contracts for duplicating machines and
14 supplies; (ix) (blank); ~~contracts for the purchase of natural~~
15 ~~gas when the cost is less than that offered by a public~~
16 ~~utility;~~ (x) purchases of equipment previously owned by some
17 entity other than the district itself; (xi) contracts for
18 repair, maintenance, remodeling, renovation, or construction,
19 or a single project involving an expenditure not to exceed
20 \$20,000 and not involving a change or increase in the size,
21 type, or extent of an existing facility; (xii) contracts for
22 goods or services procured from another governmental agency;
23 (xiii) contracts for goods or services which are economically
24 procurable from only one source, such as for the purchase of
25 magazines, books, periodicals, pamphlets and reports, and for
26 utility services such as water, light, heat, telephone or

1 telegraph; (xiv) where funds are expended in an emergency and
2 such emergency expenditure is approved by 3/4 of the members of
3 the board; and (xv) State master contracts authorized under
4 Article 28A of this Code.

5 All competitive bids for contracts involving an
6 expenditure in excess of \$10,000 must be sealed by the bidder
7 and must be opened by a member or employee of the school board
8 at a public bid opening at which the contents of the bids must
9 be announced. Each bidder must receive at least 3 days' notice
10 of the time and place of the bid opening. For purposes of this
11 Section due advertisement includes, but is not limited to, at
12 least one public notice at least 10 days before the bid date in
13 a newspaper published in the district, or if no newspaper is
14 published in the district, in a newspaper of general
15 circulation in the area of the district. State master contracts
16 and certified education purchasing contracts, as defined in
17 Article 28A of this Code, are not subject to the requirements
18 of this paragraph.

19 (b) To require, as a condition of any contract for goods
20 and services, that persons bidding for and awarded a contract
21 and all affiliates of the person collect and remit Illinois Use
22 Tax on all sales of tangible personal property into the State
23 of Illinois in accordance with the provisions of the Illinois
24 Use Tax Act regardless of whether the person or affiliate is a
25 "retailer maintaining a place of business within this State" as
26 defined in Section 2 of the Use Tax Act. For purposes of this

1 Section, the term "affiliate" means any entity that (1)
2 directly, indirectly, or constructively controls another
3 entity, (2) is directly, indirectly, or constructively
4 controlled by another entity, or (3) is subject to the control
5 of a common entity. For purposes of this subsection (b), an
6 entity controls another entity if it owns, directly or
7 individually, more than 10% of the voting securities of that
8 entity. As used in this subsection (b), the term "voting
9 security" means a security that (1) confers upon the holder the
10 right to vote for the election of members of the board of
11 directors or similar governing body of the business or (2) is
12 convertible into, or entitles the holder to receive upon its
13 exercise, a security that confers such a right to vote. A
14 general partnership interest is a voting security.

15 To require that bids and contracts include a certification
16 by the bidder or contractor that the bidder or contractor is
17 not barred from bidding for or entering into a contract under
18 this Section and that the bidder or contractor acknowledges
19 that the school board may declare the contract void if the
20 certification completed pursuant to this subsection (b) is
21 false.

22 (b-5) To require all contracts and agreements that pertain
23 to goods and services and that are intended to generate
24 additional revenue and other remunerations for the school
25 district in excess of \$1,000, including without limitation
26 vending machine contracts, sports and other attire, class

1 rings, and photographic services, to be approved by the school
2 board. The school board shall file as an attachment to its
3 annual budget a report, in a form as determined by the State
4 Board of Education, indicating for the prior year the name of
5 the vendor, the product or service provided, and the actual net
6 revenue and non-monetary remuneration from each of the
7 contracts or agreements. In addition, the report shall indicate
8 for what purpose the revenue was used and how and to whom the
9 non-monetary remuneration was distributed.

10 (c) If the State education purchasing entity creates a
11 master contract as defined in Article 28A of this Code, then
12 the State education purchasing entity shall notify school
13 districts of the existence of the master contract.

14 (d) In purchasing supplies, materials, equipment, or
15 services that are not subject to subsection (c) of this
16 Section, before a school district solicits bids or awards a
17 contract, the district may review and consider as a bid under
18 subsection (a) of this Section certified education purchasing
19 contracts that are already available through the State
20 education purchasing entity.

21 (Source: P.A. 93-25, eff. 6-20-03; 93-1036, eff. 9-14-04;
22 94-714, eff. 7-1-06.)

23 (105 ILCS 5/34-21.3) (from Ch. 122, par. 34-21.3)

24 Sec. 34-21.3. Contracts. Other than those contracts
25 excepted by Section 10-20.21 of this Code, the ~~The~~ board shall

1 by record vote let all contracts ~~(other than those excepted by~~
2 ~~Section 10-20.21 of The School Code)~~ for supplies, materials,
3 or work, contracts for the purchase of natural gas or electric
4 service, and contracts with private carriers for
5 transportation of pupils, involving an expenditure in excess of
6 \$10,000 by competitive bidding as provided in Section 10-20.21
7 of this Code ~~The School Code~~.

8 The board may delegate to the general superintendent of
9 schools, by resolution, the authority to approve contracts in
10 amounts of \$10,000 or less.

11 For a period of one year from and after the expiration or
12 other termination of his or her term of office as a member of
13 the board: (i) the former board member shall not be eligible
14 for employment nor be employed by the board, a local school
15 council, an attendance center, or any other subdivision or
16 agent of the board or the school district governed by the
17 board, and (ii) neither the board nor the chief purchasing
18 officer shall let or delegate authority to let any contract for
19 services, employment, or other work to the former board member
20 or to any corporation, partnership, association, sole
21 proprietorship, or other entity other than publicly traded
22 companies from which the former board member receives an annual
23 income, dividends, or other compensation in excess of \$1,500.
24 Any contract that is entered into by or under a delegation of
25 authority from the board or the chief purchasing officer shall
26 contain a provision stating that the contract is not legally

1 binding on the board if entered into in violation of the
2 provisions of this paragraph.

3 In addition, the State Board of Education, in consultation
4 with the board, shall (i) review existing conflict of interest
5 and disclosure laws or regulations that are applicable to the
6 executive officers and governing boards of school districts
7 organized under this Article and school districts generally,
8 (ii) determine what additional disclosure and conflict of
9 interest provisions would enhance the reputation and fiscal
10 integrity of the board and the procedure under which contracts
11 for goods and services are let, and (iii) develop appropriate
12 reporting forms and procedures applicable to the executive
13 officers, governing board, and other officials of the school
14 district.

15 (Source: P.A. 89-15, eff. 5-30-95.)

16 Section 90. The State Mandates Act is amended by adding
17 Section 8.31 as follows:

18 (30 ILCS 805/8.31 new)

19 Sec. 8.31. Exempt mandate. Notwithstanding Sections 6 and 8
20 of this Act, no reimbursement by the State is required for the
21 implementation of any mandate created by this amendatory Act of
22 the 95th General Assembly.